

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:05CR147
)	
v.)	
)	
JOSE MANUEL MONTOYA,)	ORDER
)	
Defendant.)	
)	

This matter is before the court on defendant's motion to continue trial and for an extension of time to file pretrial motions [26]. This matter has already been set for trial, and the deadline for filing pretrial motions expired on May 25, 2005. Defendant requested that a change of plea hearing be set before Judge Bataillon. Defendant ultimately decided that he did not want to change his plea, and trial was set for August 22, 2005. Defendant now requests a continuance of "at least 60-90 days."

The court will not consider a continuance of this length until the defendant files a waiver of speedy trial as required by NECrimR 12.1 and/or 12.3(a) **specifically acknowledging that the time between the initial date for filing pretrial motions, i.e., May 25, 2005 and the proposed extended trial date** be excluded under the Speedy Trial Act.

Accordingly,

IT IS ORDERED:

1. Defendant's Motion [26] is held in abeyance pending compliance with NECrimR 12.1 or 12.3(a).
2. Defendant shall electronically file a waiver of speedy trial before the close of business on August 18, 2005 specifically acknowledging that the time between the initial date for filing pretrial motions, i.e., May 25, 2005 and the proposed extended trial date be excluded under the Speedy Trial Act. If the waiver is not timely filed, the motion will be denied in its entirety.

DATED August 12, 2005.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**